

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33428 of 2025

Arising Out of PS. Case No.-345 Year-2024 Thana- DAWATH District- Rohtas

Nand Kishore Kumar S/o Ramchandra Rai Resident of village- Rampur, P.S.-
Orai (aurai), District- Muzaffarpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ashutosh Tripathy, Adv.

For the Opposite Party/s : Mr. Abhay Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

2 18-07-2025 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in connection with Dawath P.S. Case No. 345 of 2024 dated 26.10.2024 registered for the offences punishable u/ss 30(a), 32(1)(2) and 41 of the Bihar Prohibition and Excise Act.

3. As per the prosecution case, total 118.14 litres of illicit foreign liquor was recovered from the Car.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. The apprehended person disclosed the name of the petitioner. The petitioner is neither the owner nor the driver of the said vehicle. No incriminating material has been recovered from



the conscious possession of the petitioner. The petitioner has no concern with the alleged recovery. The petitioner has no criminal antecedent as stated in para 3 of the bail petition. The co-accused person has already been granted regular bail by this Court vide order dated 09.01.2025 passed in Cr. Misc. No. 85405 of 2024. Learned counsel has submitted that no case is made out against the petitioner. Learned Counsel has relied on the judgment of Full Bench of Hon'ble Patna High Court in the case of **Ram Vinay Yadav vs. State of Bihar 2019 (2) PLJR 1089**. The Full Bench in the case of **Ram Vinay Yadav (supra)** has held that an application for anticipatory bail in a case arising out of Bihar Excise and Prohibition Act can be maintained, despite the bar under Section 76 (2) of the Act, if on the basis of allegation made in the FIR, no offence under the said provision is made out.

5. Learned A.P.P. for the State has vehemently opposed the prayer for anticipatory bail of the petitioner by submitting that the bar of Section 76(2) of the Act applies in this case.

6. Considering the aforesaid facts and circumstances of the case as well as the material available on record, let the above named petitioner, in the event of his arrest/surrender



within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned Court concerned, Rohtas in connection with Dawath P.S. Case No. 345 of 2024, subject to conditions as laid down under section 482(2) of the B.N.S.S.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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